

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

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The Peoples Gas Light and Coke  
Company

Petition pursuant to Rider VBA of  
schedule of rates for gas service to  
initiate a proceeding to determine the  
accuracy of rider VBA reconciliation  
statement.

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**Docket No. 09-0124**

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**BRIEF ON EXCEPTIONS OF THE  
STAFF OF THE ILLINOIS COMMERCE COMMISSION**

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January 22, 2010

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STAFF OF THE ILLINOIS COMMERCE COMMISSION**

Now comes the Staff of the Illinois Commerce Commission ("Staff"), by and through its undersigned attorneys, and pursuant to Section 200.830 of the Commission's Rules of Practice, 83 Ill. Adm. Code Section 200.830, respectfully submits this Brief on Exceptions to the Proposed Order issued by the Administrative Law Judge ("ALJ") on January 15, 2010 ("Proposed Order" or "PO").

**I. INTRODUCTION**

The PO reviews the issues presented in this proceeding in a clear and concise manner, is well written, and reflects the positions taken by The Peoples Gas Light and Coke Company ("Peoples Gas"), the People of The State of Illinois ("AG") and Staff. However, certain technical corrections are necessary. Staff's exceptions are set forth below.

## **II. EXCEPTIONS**

### **A. Technical Corrections**

#### **1. References to Rider ICR**

The Proposed Order mistakenly refers to Rider VBA as Rider ICR in a few instances. The PO should be corrected as follows.

Recommended Language  
(PO, pp. 9-10)

\* \* \*

Given the nature of its recommendations and other arguments, the Commission believes that the AG misapprehends the purpose and scope of this reconciliation proceeding. As such, the AG confuses the singular matter at hand with an overall study and assessment of the Rider VBA~~ICR~~ pilot program that would requires a different set of factors and evidence. Moreover, we are not convinced that the scope of this manner of proceeding, identified by its caption and consistent with the tariff, would ever allow for such a different undertaking. For example, there is nothing in a reconciliation that lends itself to an account of energy efficiency program impacts. Merely because the Commission recognized the implementation of such programs as one factor in its approval of Rider VBA does not mean that the reconciliation proceeding is open to a consideration of tangential matters that bear no materiality to what is at hand. The AG has not convinced us otherwise. Stated another way, the AG has not shown with any specificity how its recommendation assists in determining the accuracy of the reconciliation statement.

We observe the AG spend considerable amounts of time reminding the Commission of the challenges to our adoption Rider VBA and to its workings. In so doing, however, the AG is neither complete in relating the features of this mechanism nor does the AG acknowledge that it took no advantage of the opportunity to propose changes for the Rider VBA~~ICR~~ tariff at the relevant time. In any event, we agree with the Company that certain of the AG's arguments veer close to mounting a collateral attack on Rider VBA~~ICR~~ that is both improper and of no value to our work in this proceeding.

The AG fails to consider that Staff's review and testimony along with the Company's record filings is an integral part of our vigilant oversight of Rider VBA/ICR's operations. The process at hand was viewed by the Commission as an important safeguard at the time we adopted this Staff-recommended annual reconciliation and we find that Peoples Gas has complied in initiating the instant proceeding as required. Just as the Company recognizes, this proceeding is intended to protect customers by ensuring that the charges and credits implemented under Rider VBA were accurately deployed such that Peoples Gas does not over-or under-collect on its rate case margin. And, the reconciliation adjustment is the mechanism that implements the results of the review. This is where the Commission's focus lies.

\* \* \*

## **2. Reference to North Shore and VG Exhibits**

The Proposed Order mistakenly refers to North Shore's exhibits rather than Peoples Gas' exhibits in a few instances. Further, one reference to Peoples Gas witness Valerie Grace's exhibit VG contains a typo as well. The PO should be corrected as follows.

Recommended Language

(PO, p. 2)

\* \* \*

Company witness Valerie Grace explained that, beginning in April 2008, Peoples Gas submits a statement to the Commission each month ("Filing Month"), showing the adjustments to be effective for the next month ("Effective Month") based on an analysis of actual data for the prior month ("Reconciliation Month"). Thus, there is a two month difference between the Reconciliation Month and the Effective Month under Rider VBA. Section C of the rider requires Peoples Gas to file annually, no later than February 28 or 29, as applicable, a statement of the reconciliation adjustment ("RA") components that apply to the ten-month period beginning March 1. The first such filing was due February 27, 2009. Section D of the rider requires that Peoples Gas, at the time it files its reconciliation statement, file a petition seeking initiation of an annual reconciliation to determine the accuracy of the statement. PGLNS Ex. VG-1.0 at 3.

Ms. Grace explained that Rider VBA requires a reconciliation of revenues for a fiscal year ending December 31. This initial reconciliation reflects only a partial year as the first adjustments under Rider VBA were based on actual data for March 2008. The first reconciliation period is March 1, 2008, through December 31, 2008. *Id.*

Over the 10-month period beginning March 1, 2009, Ms. Grace stated that Peoples Gas will refund \$2,339,101.29 to Service Classification ("S.C.") No. 1 sales customers and \$234,382.82 to S.C. No. 1 transportation customers through factor RA. *Id.* at 4; PGLNS Ex. VG-1.1. The RA components for S.C. No. 1 sales and transportation customers are credits of .54 cents and .58 cents per therm, respectively. PGLNS Ex. VG-1.0 at 4-5; PGLNS Ex. VG-1.1.

Over the 10-month period beginning March 1, 2009, Ms. Grace stated that, Peoples Gas will refund \$398,059.22 to S.C. No. 2 sales customers and \$1,625,557.10 to S.C. No. 2 transportation customers through factor RA. Grace Dir., PGLNS Ex. VG-1.0 at 5; PGLNS Ex. VG-1.1. The RA components for S.C. No. 2 sales and transportation customers are credits of .18 cents and .51 cents per therm, respectively. *Id.* at 5.

#### Recommended Language

(PO, pp. 3-4)

Ms. Grace stated that Peoples Gas generally accepts Ms. Hathhorn's recommendations. First, she testified that Peoples Gas does not oppose adoption of her presentation of the reconciliation. Ms. Grace recommended, however, that Peoples Gas include the resulting Factor O in the reconciliation adjustment ("RA") and not the Effective Component. Second, Ms. Grace stated that Peoples Gas agrees to change the date of the annual reconciliation adjustment filing from the last day of February to March 31. According to Ms. Grace, this change requires some additional changes to Rider VBA. Third, Ms. Grace confirmed that Peoples Gas agrees to work with the Staff on procedures to phase out Rider VBA if it is not made permanent after the initial four-year pilot program period with Ms. Grace noting that Rider VBA currently includes language that will allow, if necessary, a timely phase-out of the pilot program. PGLNS Ex. VG-2.0 at 2.

Ms. Grace explained that Ms. Hathhorn's presentation includes revenue amounts billed under Rider VBA ("VBAR") for January and February 2009. She said that Peoples Gas did not include these amounts in its presentation because, under its current tariff, these amounts would have been included as VBAR amounts in the annual reconciliation for 2009, which would be filed in February, 2010 and billed to customers effective March 1, 2010. For Peoples Gas, Ms. Hathhorn's presentation is acceptable with one caveat, namely, if the Commission's order is issued after the next reconciliation

is filed, Ms. Hathhorn's presentation would be moot as her recommended Factor O amounts would be subsumed in the RA filed no later than the last day of February 2010 and billed to customers effective March 1, 2010. *Id.* at 2-3.

Ms. Grace stated that the Factor O should be included in the RA and not the Effective Component, as recommended by Ms. Hathhorn. She explained that Rider VBA includes Factor O amounts in the RA formula, thereby allowing any Factor O amounts to be billed to customers in the RA over a 10-month period. Ms. Hathhorn's proposal does not consider the ramifications of inclusion in the Effective Component. Including Factor O amounts in the Effective Component would shift such amounts into the fiscal year 2010 annual reconciliation and the resulting RA that would be billed beginning in 2011, thereby reversing the entire adjustment amount instead of accomplishing the timelier matching of amounts recommended by Ms. Hathhorn. Ms. Grace stated that her proposal to include Factor O in the RA would ensure that these amounts are fully and accurately billed to customers in 2010. *Id.* at 3-4.

Ms. Grace stated that Peoples Gas agrees to move the reconciliation filing from the last day of February to the last day of March. She stated that this requires some additional changes to Rider VBA and included revision-marked tariff sheets to show the proposal if the Commission order is issued by February 16, 2010. *Id.* at 4; PGLNS Ex. VG-2.1. Ms. Grace also presented tariff sheets that would apply if the Commission order is issued subsequent to February 16, 2010. PGLNS Ex. VG-2.2. According to Ms. Grace, if the Commission issues an order after February 16, Peoples Gas would be in the process of preparing its reconciliation filing for 2009 pursuant to the current terms of Rider VBA. It would have limited time to prepare and make a compliance filing that would delay the filing of the annual reconciliation to March 31. If the order timing is such that Peoples Gas has submitted its annual reconciliation filing for 2009, additional tariff revisions would be needed to redefine VBAR to include the January and February amounts for 2010 and January and February for 2011 to fully implement Ms. Hathhorn's recommendations. PGLNS Ex. VG-2.0 at 4-5.

#### Recommended Language

(PO, p. 7)

\* \* \*

In response to AG's recommendations, the Company begins by explaining that the reconciliation adjustments ("RA") are the products of a specific formula set forth in Rider VBA. It directs attention to PGLNS Exs. VG-1.1 and VG-2.1 at 3 of 5 (wherein is provided the statement, and related tariff formula, respectively). The Company would have it be noted that the statement provides detailed data - both by month and by service classification - to support the adjustments. PGLNS Ex. VG-1.1 at 3-4.

\* \* \*

## Recommended Language

(PO, p. 10)

\* \* \*

In terms of the present order, the AG does not contend that certain evidence, i.e., impacts of the rider on an annual and monthly basis for each customer class subject to the rider, is not in the record. Indeed, the AG cannot so claim. See Statement at pages 3, 4, PGL Ex. VGB-1.1 All that we understand the AG to argue is that such evidence was not clearly set out in the testimony. Given that this information is not a factor in the calculation, we see no merit to the AG's argument or its recommendation

\* \* \*



### III. CONCLUSION

Staff respectfully requests that the Illinois Commerce Commission approve Staff's recommendations in this docket.

Respectfully submitted,

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January 22, 2010

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